

TENNESSEE STATE BOARD OF EDUCATION	
English as a Second Language (ESL) PROGRAM POLICY	3.207

The English as a Second Language (ESL) Program Policy is designed to set minimum standards for Tennessee school districts in providing services to non-English language background (NELB) students who are also English Learners (ELs). These students were previously referred to in this policy as English Language Learners (ELLs).

States, districts, and schools are required to provide specialized programs for limited English proficient (LEP) students to comply with Title VI of the Civil Rights Act of 1964 and the obligations found in the Department of Education’s guidance document, *Legal Obligations and Best Practices Pertaining to English Learners*.

This ESL Program policy establishes the minimum required compliance components for ESL programs in Tennessee and provides a framework for implementing effective educational programs for ELs.

#### **POLICY SECTIONS**

1. Anti-Discrimination Policies and Practices
2. Identification of English Learners
3. Parental Notification and Rights
4. Service Delivery Models
5. Staffing Ratios
6. Exit Criteria

#### **1. ANTI-DISCRIMINATION POLICIES AND PRACTICES**

- a. To comply with Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974, all school districts must have anti-discriminatory policies that preclude denial of equal education opportunities to individuals based on race, color, or national origin. To comply with anti-discriminatory policies, district practices must not result in the inappropriate placement of ELs in or the exclusion from special opportunity programs or activities based on English language proficiency or national origin. The Supreme Court decision, *Plyler v. Doe*<sup>1</sup>, prohibits school districts from denying undocumented immigrant children a free public education and rejects the denial or exclusion of educational services for immigrant children due to financial burden.

#### **2. IDENTIFICATION OF ENGLISH LEARNERS**

- a. To comply with the Every Student Succeeds Act (ESSA), the most recent reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965,

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<sup>1</sup> *Plyler v. Doe*, 457 U.S. 202 (1982).

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each state must have a uniform process for the identification of NELB students who are ELs. In Tennessee, this is a two-step process.

- b. Step 1: School districts administer the Home Language Survey to all students in the district. The Home Language Survey consists of three questions that will be asked of every parent or guardian enrolling his/her child in the school district. These questions are:
  - i. What is the first language this child learned to speak?
  - ii. What language does this child speak most often outside of school?
  - iii. What language do people usually speak in this child's home?
- c. If the answer to *any* of the above questions is a language other than English, the child will be classified as NELB and assessed for English proficiency using the state's approved screening assessment for ESL. If needed, the parents should be interviewed to clarify any discrepancies in the home language survey.
- d. Step 2: Unless an NELB student has documentation from a previous state or district that he or she has met the definition of Fluent English Proficient (FEP). School districts must assess all NELB students with the state-approved English language proficiency screener to determine whether the student is LEP. All NELB students who are determined to have limited English proficiency shall be identified as ELs, and ESL services must be provided through an allowable service delivery model.
- e. In content area classes, teachers must modify instruction and assessments to make content area standards and curriculum accessible to ESL students. Students may not be retained due to language ability.<sup>2</sup>

### 3. PARENTAL NOTIFICATION AND RIGHTS

- a. School districts shall communicate information related to testing, placement, and ESL services to all parents on NELB students in the language and method that the parent can understand, to the extent practicable. Parents of ELs must be informed of the right to refuse placement of their children in ESL programs. If the parent refuses direct ESL services for the student, the regular classroom teacher will be responsible for ESL services to this child. Parents must also be advised of studies related to an emergent EL.<sup>3</sup> Parents must be informed of the ESL program type to

<sup>2</sup> Title VI of the Civil Rights Act of 1964; *Lau v. Nichols*, 414 U.S. 563 (1974).

<sup>3</sup> ESSA 1112(e)(3)(A) and (C)

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be used, length of time expected for completion of ESL services, how the child was assessed, and options related for program types if available.

#### 4. SERVICE DELIVERY MODELS

- a. ESL, which is an alternative language program for ELs, is defined as “English instruction especially designed for speakers of other languages.” An ESL program may be provided through various service delivery models including:
  - i. ESL pull-out programs,
  - ii. ESL cluster centers to which students are transported from their zone schools,
  - iii. Resource centers/ESL laboratories,
  - iv. iv. Newcomer centers
  - v. Push-in or inclusion models,
  - vi. Sheltered content classes,
  - vii. Content based ESL classes,
  - viii. Structured immersion classes, or
  - ix. Scheduled ESL class periods.
- b. The Tennessee Department of Education must approve other models based on the available evidence of their effectiveness. All models must address how academic deficits that are the result of students' limited English proficiency will be remediated. The ESSA demands that all ESL service be founded on evidence-based educational practices.
- c. At the elementary level, an ESL certificated or an ESL endorsed teacher must provide direct services one (1) to two (2) hours per day for pre-functional, beginning, and intermediate ELs (WIDA level 1.0 to 3.5 on composite and literacy). Students at the advanced level (WIDA level 3.6 to 5.0 on composite and literacy) may have programs more tailored to their needs including, but not limited to, fewer hours of ESL direct instruction based on their individualized learning plan (IEP), skills based interventions, and other recommendations that are differentiated for the particular EL. ELs should continue to receive up to one (1) hour of direct service each day until they achieve English proficiency that allows transition to regular academic programs to take place for content areas of instruction. Response to Intervention and Instruction (RTI<sup>2</sup>) complements ESL instruction and does not replace the ESL instruction needed.
- d. Transitional EL students are considered proficient and may be mainstreamed in the regular classroom with careful monitoring for two (2) years. Should a transitional student begin to have difficulty in classes, he or she should receive

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meaningful ESL support immediately. Accommodations and modifications should be utilized to support the EL student. If this support is not successful, the district must adopt and implement a written procedure to reclassify the student as an EL.

- e. At the high school level, districts shall use one course code for all ESL course work. ESL course work must be provided by an ESL certified or an ESL endorsed teacher. Two (2) ESL credits may be counted toward the four (4) English credits required for graduation. It is recommended that the two (2) ESL credits be substituted for English III and IV. Additional ESL courses shall be counted as elective credits. It is recommended that ELs achieve the intermediate level on the English language proficiency test before taking a regular English course. Due to course requirements for graduation, there can be more flexibility in service hours to alleviate issues related to scheduling classes. A pre-functional and beginning EL student (WIDA level 1.0 to 3.5 on composite and literacy) should never have less than one (1) hour of ESL service per day.

## 5. STAFFING RATIOS

- a. Appropriate staffing of ESL programs is based on the following criteria:
  - i. Districts will provide adequate ESL faculty to implement the chosen service delivery model effectively, as documented by the progress in English language proficiency and academic content of their ELs.
  - ii. Districts will adequately staff their ESL programs to meet federal compliance requirements, including but not limited to, communication to parents, identification of English language learners, and monitoring of transitional ELs.
- b. To meet the two (2) criteria of effective and compliant ESL programs, districts shall implement ESL programs based on the following staffing ratio standards:
  - i. ESL class sizes shall not exceed state mandated grade level class size requirements; and
  - ii. The district-wide ESL program staffing ratio shall be based on an average of no more than 35 identified EL students per full-time ESL endorsed teacher unless an alternate staffing ratio is approved by the Tennessee Department of Education. An alternative staffing ratio can only be approved when the district is showing adequate academic growth with the EL population and can prove that ELs are receiving the recommended hours of service.

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- c. Districts seeking approval for a waiver for an alternate district-wide staffing ratio shall provide the following information annually to the Tennessee Department of Education:
  - i. The number of ELs served;
  - ii. The proficiency levels of those ELs;
  - iii. The school's accountability designation (cannot be a focus school for ELs);
  - iv. The most recent analysis for the EL subgroup for achievement assessments in reading/language arts, mathematics, and science;
  - v. The proposed staffing ratio that will be used in place of the recommended 35 to 1 ratio; and
  - vi. The justification for the alternate staffing ratio.

## 6. EXIT CRITERIA

English Learners may be exited, also referred to as reclassification, as transition ELs when the scores for both composite and literacy on the WIDA ACCESS are 5.0 or higher. Students in the first and second years of transition are referred to as T1 and T2 respectively. During this transition period, students must be monitored and served as needed. With the implementation of the ESSA, ELs will remain in transition for two additional years, respectively T3 and T4. During those years, no service beyond what would be done to differentiate for any student is expected of the district, however, these students will be added to the EL subgroup for accountability for transparency purposes only. If the child was exited from EL by another state more than one (1) year prior, the exit should stand as valid, with the understanding that the EL could be rescreened if there is an issue with English performance during the school year.

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## APPENDIX

### Definitions for English as a Second Language Programs

Beginning/intermediate English Learners (EL) - NELB students who have been administered the English language proficiency assessment or the WIDA Screener and score pre-functional, beginning, or intermediate (WIDA ACCESS or WIDA Screener 1.0 to 3.5) on the English language proficiency assessment and are thereby entitled to ESL services.

English Learners (EL) [formerly Limited English Proficient (LEP)] - non-English language background students whose level of oral, reading, and written proficiency in English does not allow them to benefit fully from the curriculum and creates difficulty in regular classroom curriculum without specially designed modifications. EL students have not yet met the definition of fluent English proficient (FEP), which in Tennessee is determined by 5.0 composite and literacy scores on the WIDA ACCESS assessment.

English as a Second Language (ESL) - English as a Second Language courses that meet Tennessee State Board of Education Rule 0520-01-03-.05 definition of "English instruction especially designed for speakers of other languages." In Tennessee, a teacher providing ESL instruction must have a TN ESL endorsement or TN ESL certification.

Fluent English Proficient (FEP) - NELB students who meet one of the following criteria:

1. Upon initial enrollment in a Tennessee public school, scored proficient or advanced on the state-approved English language proficiency screener or assessment; or
2. Initially qualified as EL based on the state approved English language proficiency assessment, received ESL services, and have now scored a composite and literacy score of at least 5.0 on overall composite and literacy section of the WIDA ACCESS assessment.

Home Language Survey - the questions asked of all students within the school district to determine whether students are non-English language background. The questions are:

1. What is the first language this child learned to speak?
2. What language does this child speak most often outside of school?
3. What language do people usually speak in this child's home?

Limited English Proficient (LEP) - this is the federal term formerly used for EL. Districts must still identify families of EL students as LEP or FEP.

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Non-English Language Background (NELB) - a student whose answer to any of the questions on the home language survey is a language other than English. NELB students may be classified as NELB, EL, or EL transitional students.

Transitional ELs (T1, T2) - NELB students, who were classified as EL and have scored 5.0 or better on the composite and literacy portions of the WIDA ACCESS. New categories for Transitional ELs are T3 and T4. This data will be collected beginning the fall of 2016.